

FILED

MAR 27 2019

UNITED STATES BANKRUPTCY COURT
SAN FRANCISCO, CA *de*

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11 Mario Oliveros, Jr. and Phoebe Wong-Oliveros

12 UNITED STATES BANKRUPTCY COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15 In re) **Bankruptcy Case Nos.: 19-30088 DM**
16) **Chapter 11**
17 PG&E CORPORATION, INC.,) **Hon. Dennis Montali**
18) **(Lead Case) (Jointly Administered)**
19 Debtor in Possession)
20) **DECLARATION OF ANDY KLEIBER IN**
21 Defendants.) **SUPPORT OF JOINDER TO MOTION**
22) **OF DEBTORS PURSUANT TO 11 U.S.C.**
23) **§§ 105(a), 362, AND 363 AND FED. R.**
24) **BANKR. P. 2002, 4001, AND 6004**
25)
26) **Date: April 10, 2019**
27) **Time: 1:30 p.m. (Pacific Time)**
28) **Place: United States Bankruptcy Court**
Courtroom 17, 16th Floor
San Francisco, CA 94102
)
Objection Deadline: April 3, 2019, 4:00 p.m.

29 **TO THE HONORABLE DENNIS MONTALI, UNITED STATES BANKRUPTCY**
30 **JUDGE, DEBTOR, DEBTOR'S ATTORNEY, THE UNITED STATES TRUSTEE AND**
31 **OTHER PARTIES IN INTEREST:**

32 I am the owner of 2050 Drake Drive on Oakland, California. PG&E filed an eminent
33 domain lawsuit against me to take an easement on my property and to erect two large PG&E

1 electrical towers and power lines on or adjacent to my property altering the view from my home
2 in a very negative way. Attached hereto as Exhibit A is a copy of the complaint PG&E filed
3 against me. I did not ask to lose my property and I did not want this project on or near my
4 property. Every day my family and I have to look at the enormous PG&E towers and wires from
5 my home. Numerous trees and bushes have already been removed by PG&E. My property has
6 already suffered a substantial decrease in value caused by PG&E.

7 I have not been compensated one single dollar for this loss. On December 6, 2018 we
8 attended mediation at JAMS in San Francisco and my case was settled for \$100,000.00. PG&E
9 thereafter declared bankruptcy and I have not received any portion of this settlement.

10 I declare under penalty of perjury under the laws of the State of California that the
11 foregoing is true and correct and if called as a witness I could competently testify to the truth of
12 the matters asserted therein. Executed this 21 day of March, 2019.

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15 Andy Kleiber
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EXHIBIT A

ENDORSED
FILED
ALAMEDA COUNTY

DEC 22 2017

CLERK OF THE SUPERIOR COURT
By D. CLEMONS Deputy

1 ELIZABETH A. COLLIER (State Bar No. 148537)
2 CESAR V. ALEGRIA, JR. (State Bar No. 145625)
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14 Attorneys for Plaintiff
15 PACIFIC GAS AND ELECTRIC COMPANY

16 SUPERIOR COURT OF CALIFORNIA

17 COUNTY OF ALAMEDA

18 PACIFIC GAS AND ELECTRIC
19 COMPANY,

20 Plaintiff,

21 v.

22 ANDREW M. KLEIBER; MARISA T.
23 MULLADI-KLEIBER; CHICAGO
24 TITLE COMPANY; MORTGAGE
25 ELECTRONIC REGISTRATION
26 SYSTEMS, INC; RPM MORTGAGE,
27 INC; and DOES 1 through 50 inclusive,

28 Defendants.

Case No. RG17887102

COMPLAINT IN EMINENT DOMAIN

(JURY TRIAL DEMANDED)

APN: 048E-7348-058-02

Plaintiff PACIFIC GAS AND ELECTRIC COMPANY (hereinafter referred to as

"PG&E") alleges as follows:

1. PG&E is a public utility corporation, duly organized and existing under, and by virtue of, the laws of the State of California, with its principal place of business in the City and County of San Francisco.

COMPLAINT IN EMINENT DOMAIN

BY FAX

2. The names and capacities of the known defendants (collectively "Owner") and their possible interests in the property at issue (described in Paragraph 4) are set forth below for the convenience of the Court. These data are based on information and belief, and are not allegations by which PG&E intends to be bound.

Defendant

Apparent Property Interest

ANDREW M. KLEIBER and
MARISA T. MULLADI-KLEIBER

Fee ownership interest.

CHICAGO TITLE COMPANY

Trustee under deed of trust recorded March 28, 2013, in Alameda County as Document No. 2013-113137 (the "2013 DOT")

MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC

Beneficiary under 2013 DOT, as nominee for Lender (see next item)

RPM MORTGAGE, INC

Lender under 2013 DOT

3. PG&E does not know the true names or capacities of defendants sued herein as DOES 1 through 50, inclusive, nor the interests which they claim in the property, if any. PG&E will, upon ascertaining their true names, substitute the true names for such fictitious names by amendment to this Complaint.

4. Defendants, and each of them, claim some right, title or interest in a parcel of vacant/unimproved real property situated in the Shepherd Canyon Park area of Oakland, Alameda County, California, and more particularly described as follows:

A PORTION OF LOT 420, MONTCLAIR HIGHLANDS, FILED SEPTEMBER 11, 1925, IN BOOK 4, PAGE 88, OF MAPS, ALAMEDA COUNTY RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHEAST LINE OF DRAKE DRIVE WITH THE SOUTHERN LINE OF SAID LOT 420; THENCE ALONG SAID LINE OF DRAKE DRIVE NORTH 37° 53' 30" WEST 52.67 FEET, AND ON THE ARC OF A TANGENT CURVE TO THE RIGHT WITH A RADIUS OF 25.00 FEET, A DISTANCE OF 2.22 FEET; THENCE NORTH 47° 54' 30" EAST 4.33 FEET; THENCE SOUTH 88° 43' EAST 130.01 FEET TO THE NORTHERN LINE OF SAID LOT 420; THENCE ALONG THE LAST NAMED LINE SOUTH 83° 06' 35" EAST 148.67 FEET TO THE EASTERN LINE OF SAID LOT 420; THENCE ALONG THE LAST SAID LINE SOUTH 5° 40' WEST 50.00 FEET; THENCE ALONG THE

1 SOUTHERN LINE OF SAID LOT 420, NORTH 84° 17' 20" WEST (THE
2 FILED MAP BEARING ERRONEOUSLY BEING NORTH 87° 17' 15" WEST
3 243.42 FEET TO THE POINT OF BEGINNING.

4 (Alameda County Assessor's Parcel Number 048E-7348-058-02, and hereafter the "Property.")

5 **BACKGROUND**

6 5. One of PG&E's top priorities is to ensure the safety and reliability of its electric
7 transmission system.

8 6. In June 2016, a private property owner contacted PG&E and requested it review
9 the safety and stability of two of PG&E's lattice steel electrical towers in the Shepherd Canyon
10 area of Oakland. PG&E noted potential slope instability where the towers are presently located
11 and a resulting structural impact to the legs of those towers. PG&E made a temporary fix at that
12 time.

13 7. Following the temporary fix, and after a comprehensive inspection and
14 evaluation of the system, PG&E determined that it is necessary to relocate approximately 1,600
15 linear feet of existing overhead Moraga – Oakland 115kv electric transmission lines in Shepherd
16 Canyon to mitigate safety concerns over slope stability. More specifically, PG&E needs to
17 replace those two existing towers with two self-weathering tubular steel poles ("TSPs"), and
18 relocate them to a more stable area approximately 170 and 250 feet north of their current location.

19 8. This will result in a slight realignment of the overhead lines, and the potential for
20 the overhead lines to sway or swing over private property. It is therefore critical that PG&E
21 obtain new overhead rights, including the right to ensure adequate clearance between PG&E's
22 lines and any existing structures or vegetation. To that end, PG&E requires the acquisition of
23 electric transmission and vegetation management easements from a number of residential
24 properties which are adjacent to the project area, including the Property at issue in this action.

25 9. Public interest and necessity require the Project in order for PG&E to protect the
26 integrity of its facilities, and for PG&E to continue providing safe and reliable electricity service
27 to the public.
28

1 PROJECT DETAILS

2 10. PG&E is undertaking a project entitled the Moraga-Oakland 115kv Tower
3 Replacement Project (the "Project"). PG&E's present intended scope of work includes the
4 installation of overhead crossarms, wires and cables necessary for the transmission and
5 distribution of electric energy, and for communication purposes. Specific to the Property, PG&E
6 seeks the following rights:

7
8 A. An easement to suspend, replace, remove, maintain and use such
9 crossarms, wires and cables (supported by or suspended from poles, towers,
10 or other structures located on lands adjacent to the Property) as PG&E shall
11 from time to time deem to be reasonably required for the transmission and
distribution of electric energy, and for communication purposes, together
with a right of way, on, along and in all of the easement area lying within
the Property. The easement area is described on EXHIBIT A, and shown on
EXHIBIT A-1.

12 B. The right of ingress to and egress from said easement area over and
13 across the Property by means of roads and lanes thereon, if such there be,
14 otherwise by such route or routes as shall occasion the least practicable
15 damage and inconvenience to Owner, provided, that such right of ingress
and egress shall not extend to any portion of said lands which is isolated
from said easement area by any public road or highway, now crossing or
hereafter crossing said lands.

16 C. The right, from time to time, to trim or to cut down any and all
17 trees and brush now or hereafter within said easement area, and shall have
18 the further right, from time to time, to trim and cut down trees and brush
19 along each side of said easement area which now or hereafter in the opinion
of PG&E may interfere with or be a hazard to the facilities installed
hereunder, or as PG&E deems necessary to comply with applicable state or
federal regulations.

20
21 D. The right to install, maintain and use gates in all fences which now
cross or shall hereafter cross said easement area.

22 E. The right to mark the location of said easement area by suitable
23 markers set in the ground; provided that said markers shall be placed in
24 fences or other locations which will not interfere with any reasonable use
the Owner shall make of said easement area.

25 F. PG&E will covenant and agree:
26 i. Not to fence said easement area;
27 ii. To repair any damage it shall do to Owner's private roads or lanes on the
Property;
28 iii. To indemnify Owner against any loss and damage which shall be caused
by any wrongful or negligent act or omission of PG&E or of its agents or
employees in the course of their employment, provided, however, that
this indemnity shall not extend to that portion of such loss or damage

1 that shall have been caused by the owner's comparative negligence or
2 willful misconduct; and

3 G. PG&E confirms the Owner reserves the right to use said easement
4 area for purposes which will not interfere with PG&E's full enjoyment of
5 the rights hereby granted; provided that the Owner shall not erect or
6 construct any building or other structure, or drill or operate any well, or
7 construct any reservoir or other obstruction within said easement area, or
8 diminish or substantially add to the ground level in said easement area, or
9 construct any fences that will interfere with the maintenance and operation
10 of said facilities.

11 H. The provisions and rights sought herein shall inure to the benefit of
12 and bind the successors and assigns of the respective parties, and all
13 covenants shall apply to and run with the land.

14 11. Because PG&E already has existing facilities adjacent the Property, this location
15 is ideal for the Project. A depiction of the Property, and its relation to the Project is included
16 herewith as EXHIBIT B.

17 12. PG&E has authority to exercise the power of eminent domain under Public
18 Utilities Code sections 612 and 613, and Code of Civil Procedure sections 1230.010, et seq., and
19 1240.120. Exercise of this power is proper in this case.

20 13. The rights/property sought to be condemned for the Project are necessary for the
21 project and the public good. The Project is planned and located in a manner that is the most
22 compatible with the greatest public good and with the least private injury. PG&E has made the
23 offer required by Government Code section 7267.2 to the owners of the Property. PG&E has also
24 deposited with the State Condemnation Deposit Fund probable just compensation for the
25 easement rights being acquired.

26 14. WHEREFORE, PG&E prays that the property interests and obligations as herein
27 described, and as depicted on EXHIBIT A and A-1, be condemned for the use of PG&E, that just
28 compensation due to the Defendants for the taking of this property be ascertained, that any liens
and encumbrances against said property be deducted from the judgment, and that PG&E have
such other and further relief as the Court may deem necessary and proper.

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Dated: December 22, 2017

CJG LEGAL


By: 
CHRISTOPHER J. GONZALEZ
Attorneys for Plaintiff
PACIFIC GAS AND ELECTRIC
COMPANY

EXHIBIT A

LD 2301-03-2183

2017197 (01-16-020) 7 17 2

Moraga – Oakland NEW TWR 2/19 & 2/21

EXHIBIT "A"

(APN 048E-7348-058)

A portion of Lot 420 as shown upon the map of Montclair Highlands filed for record September 11, 1925 in Book 4 of Maps at page 88, Alameda County Records, being more particularly described as follows:

Beginning at the southeast corner of said Lot 420 and thence along the easterly boundary line of said lot

(1) north $05^{\circ}40'00''$ east 50.00 feet to the northeast corner of said lot; thence leaving said easterly boundary line and running along the northerly boundary line of said lot

(2) north $83^{\circ}06'35''$ west 13.25 feet; thence leaving said northerly boundary line

(3) from a tangent line that bears south $16^{\circ}35'02''$ west, on a curve to the left, having a radius of 5000 feet, through a central angle of $0^{\circ}35'10''$, an arc length of 51.14 feet to the southerly boundary line of said lot; thence along said southerly boundary line

(4) south $84^{\circ}17'20''$ east 22.67 feet to the point of Beginning.

Containing an area of 903 square feet, more or less.


Robert S. Sullivan 12-18-17
PLS 8558



EXHIBIT A-1

(T 1S, R 3W, SEC. 21, S/W 1/4, M.D.B.&M.)

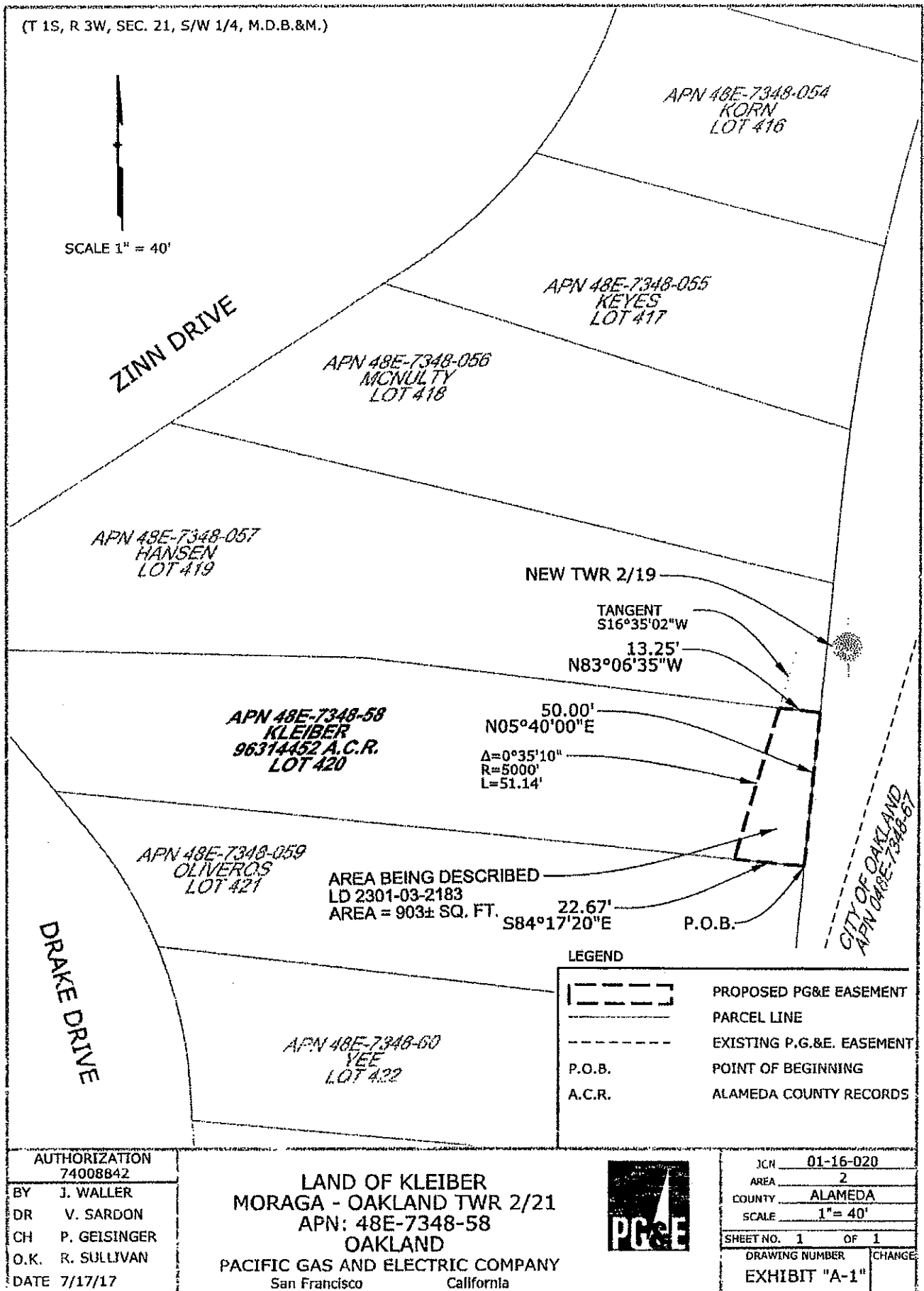
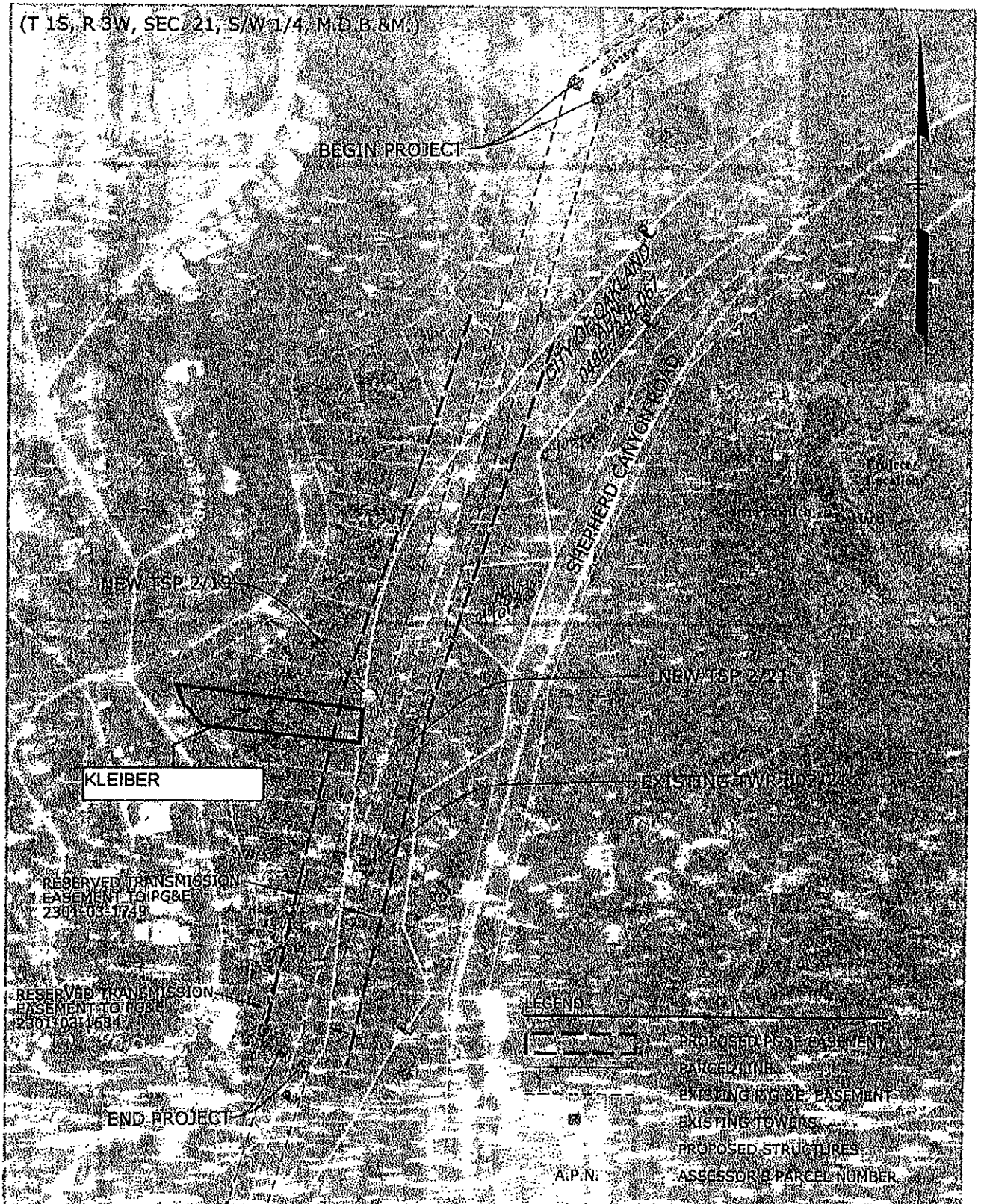


EXHIBIT B

(T 15, R 3W, SEC. 21, S/W 1/4, M.D.B. & M.)



AUTHORIZATION
74008842

BY
DR
CH
O.K.
DATE NOVEMBER 2017

EXHIBIT "B"
PROJECT EXTENTS
MORAGA - OAKLAND TOWER REPLACEMENT

PACIFIC GAS AND ELECTRIC COMPANY
San Francisco California



JCN 01-16-020
AREA NORTH COAST
COUNTY ALAMEDA
SCALE 1" = 200'

SHEET NO. 1 OF 1
DRAWING NUMBER
EXHIBIT "B" CHANGE